

### **Remarks**

This amendment responds to the official action of July 8, 2010 and is accompanied by a petition for extension and the necessary official fee.

In the official action, claims 1-3 and 5-20 are rejected as anticipated by Bosio, US 6,370,713. Reconsideration is requested in view of the claims as amended.

Bosio discloses a faucet 2 on a sink 3. A flexible hose 4 is led through the faucet and can be longitudinally pulled from a fully retracted position (not shown) at which the hose 4 is within or below the faucet 2, out to an indefinitely-extended position shown in Fig. 1, at which the user can manipulate a shower head 1 at the end of the hose 4.

Applicant's invention is directed to an inconvenient aspect of devices such as disclosed in Bosio, where there may be a tendency for the hose to pull itself back into the retracted position unless held manually. The tendency to retract can be due, for example, to the weight of the hose below the faucet. For this purpose, applicant's invention comprises a retaining mechanism that can secure the hose against the tendency to retract, controllably coupling with the hose to hold the hose against retraction, or decoupling from the hose so that the hose is permitted to retract or can be pushed back in. Applicant's retaining mechanism is switched between coupling and decoupling with the hose, by the user's manipulation of the hose.

Bosio does not disclose or suggest any sort of retaining mechanism for securing the shower hose at a pulled-out position. Bosio does not disclose or suggest any detachable coupling associated with the faucet or other feed-through element, that operates between the hose and the feed-through element, so as to couple with and thus arrest the hose at the pulled out position, and also to decouple with the hose and thus permit the hose to retract. Bosio therefore cannot possibly disclose such a retaining mechanism, wherein the user's manipulation of the hose switches a retaining mechanism between coupled and decoupled states with the hose.

Nevertheless, according to the official action, the fully retracted state of Bosio's hose and shower head was considered to anticipate claim 1. The shower head 1 terminating the hose is officially construed to be a retaining mechanism (official action page 2, line 21).

When the Bosio hose is retracted such that the shower head rests against the end of the faucet, the hose can move in only one direction, i.e., outwardly. The shower head is bigger than the opening in the faucet, preventing the hose from retracting any further than that. When the shower head terminating the hose is against the end of the faucet, Bosio's so-called retaining mechanism is not a condition wherein the shower head can be retracted back into the feed through element as claimed by applicant. Claim 1 is not anticipated.

Applicant does not find in the official action any explanation as to how Bosio is construed to disclose a detachable coupling for coupling and decoupling the shower hose with the retaining mechanism, particularly when the retaining mechanism has been officially construed to be the shower head 1. The Bosio shower head is permanently attached to the Bosio hose. It might be possible to take Bosio's shower head apart or remove it from the hose as shown by exploded views, but obviously that is not an operational matter. When the Bosio hose is pulled out, the shower head may be "decoupled" from the faucet, but the shower head (and thus the retaining mechanism) is never decoupled from the hose. Bosio is not structured in the manner defined by claim 1 and cannot operate in the manner defined by claim 1.

The application of the claim language to Bosio in the official action is inconsistent and incomplete. There is no proper basis to consider Bosio to anticipate claim 1. Bosio neither discloses nor suggests any sort of structure that couples and decouples with a shower hose as claimed. The Bosio shower hose is permanently and loosely fed through the faucet and permanently and rigidly "coupled" at its extreme end to the shower head. Applicant requests that the rejection under Section 102 be withdrawn.

Applicant has amended claim 1 to further obviate the examiner's claim construction seeking to read applicant's claims for a switching retaining mechanism on Bosio's hose and shower head, which have no similar structure or function. According to claim 1 as amended, applicant's retaining mechanism is disposed at the feed-through element. (This limitation is supported at page 2, lines 10-12, paragraph [0007] as published, and by original claim 2.) Bosio's shower head is disposed at the end of the hose and is removed from its abutment against the faucet when the hose is pulled out. Bosio's device does not couple and decouple with the hose. Bosio's device does not retain the hose at a position to which the hose has been pulled out, as defined in claim 1. Applicant's Fig. 1 shows a pulled-out position of the hose and applicant's Figs. 4-6 show pulled-out positions comparing coupled and decoupled conditions of the mechanism in the feed-through element.

Claim 1 as amended defines that the shower hose can be pulled longitudinally out from the feed-through element to a position at which the hose can be retained by a retaining mechanism, and from which the hose can be retracted back through the feed-through element. Claim 1 cannot be construed to read on a retractable shower head mounting in a fully retracted position from which the hose can be retracted no further. Claim 1 is not anticipated by Bosio.

Claims 2-3 and 5-20 depend from and incorporate the subject matter of claim 1 and likewise are not anticipated by Bosio due to the limitations in claim 1. Moreover, these claims independently distinguish from Bosio's disclosure. Although the official action alleges that Bosio discloses aspects stated in the claims, the rejections are unsubstantiated assertions as to what is alleged to be disclosed in Bosio. The rejections constitute only recital's of applicant's claim language and lack an explanation as to which passages or illustrations in Bosio are considered to meet or to compare with elements defined by applicant's claims. The official action lacks a logical explanation as to how the elements claimed can possibly be found to be present in Bosio's text

description drawings, either expressly or inherently. The grounds of rejection are without basis in fact as well as being deficient for lack of explanation.

Regarding claim 2 (depending from claim 1 and also now amended), Bosio's retaining mechanism is not disclosed as being disposed on or in the feed-through element. The retaining mechanism of Bosio was construed in the official action to be the shower head 1, which is disposed on the hose, not on the feed-through element, namely faucet 2. Bosio's hose is fed movably through the feed-through element, making the alleged retaining mechanism movable relative to the feed-through element. The retaining mechanism is not disposed on or in the feed-through element as applicant discloses and as recited in claims 1 and 2.

Regarding claim 3 (depending from claim 1 and also now amended), Bosio's alleged coupling cannot be actuated manually by action of the retaining mechanism upon the feed-through element. The coupling and decoupling defined in applicant's claims is between the retaining mechanism and the hose. Bosio's alleged retaining mechanism, namely shower head 1, is permanently and immovably affixed to the hose. Claim 3 is not anticipated by Bosio.

As to claim 5, the official action states that Bosio's coupling can be released by pulling on the shower hose and engaged by renewed pulling. Bosio's shower head (retaining mechanism) is permanently engaged to the shower hose. It is not disengaged and re-engaged by successive pulling motions. Even assuming that the abutment of the shower head against the faucet is engagement of some kind, pulling on the hose can only disengage. Nothing can ever be engaged in Bosio by pulling on the shower head or on the hose.

Regarding claims 6 and 7, the official action asserts that in Bosio the shower hose is secured by force closure. There is no securing by force closure found anywhere in Bosio. The shower head is secured to the hose by thread 6a. The shower head and permanently attached hose are longitudinally abutted against the faucet. There is no

disclosure or suggestion in Bosio of a retaining mechanism that exerts and releases a force closure on the hose.

At to claim 8, no explanation whatsoever is provided in the official action for how Bosio is construed to disclose a retaining mechanism that secures the shower hose in certain rotary positions and permits the hose to pass in other rotary positions. As to claims 9-20, perhaps the examiner considers some internal structure in Bosio's shower head to have a sleeve, oblique surface, clamping and guiding action, protruding projection, rotatable connecting link guide, etc. Applicant does not find any explanation of how or where these aspects are found in Bosio's disclosure. The official action fails to identify the aspects in Bosio's disclosure that are considered to meet the aspects particularly and distinctly stated in applicant's claims. Thus, the official action fails to constitute a proper rejection having the explanation that is necessary under 35 USC §132. The rejections of claims 1-3 and 5-20 are unwarranted and also insufficient.

The prior art of record does not disclose the subject matter claimed as a whole. A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference. *Verdegaal Bros., Inc. v. Union Oil Co. of California*, 814 F.2d 628, 631 (Fed. Cir. 1987). Applicant requests that the rejection of claim 1 under 35 USC §102 be withdrawn and that the claims be allowed because the prior art does not meet each and every element claimed.

The cited Bosio reference has nothing remotely resembling a hose retention mechanism as defined in claim 1, either in structure or function. The differences between the invention and the prior art are such that the subject matter claimed as a whole is not shown to have been obvious.

Claim 1 has been amended to preclude the possibility of reading the claim so broadly as to encompass devices that have little if any relationship to the invention. Claim 1 is properly allowable over the prior art. The remaining claims depend directly or indirectly from claim 1 and are allowable at least by virtue of dependence on claim 1,

and also by virtue of their recital of specific structural arrangements and functions that are not found or suggested in the art.

The application is in condition for allowance. Applicant requests prompt allowance of claims 1-3 and 5-20.

Respectfully submitted,

Date: January 4, 2011

/Stephan Gribok/  
Stephan P. Gribok, Reg. No. 29,643  
Duane Morris LLP  
30 South 17<sup>th</sup> Street  
Philadelphia, PA 19103-4196  
tel. 215-979-1283  
fax. 215-979-1020  
SPGRIBOK@DUANEMORRIS.COM

Docket No.: D4700-00419  
P 43023 WO/US